

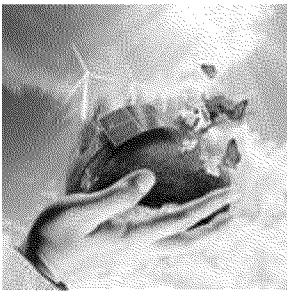
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Air & Radiation Law News for May 19, 2017

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NEWS

Air Pollution

Nevada Cement to Pay \$4 Million for Air Pollution Violations

A Nevada cement maker will spend about \$4 million under an agreement with the federal government over alleged Clean Air Act violations.

Climate Policy

Trump Acting as Climate 'Bully' Galvanizes Work at UN Talks

President Donald Trump's threat to pull the U.S. out of the Paris Agreement on climate change has catalyzed envoys from much of the rest of the world working to give the deal a boost at United Nations talks in Germany this week.

Climate Regulation

Landfill Methane Rules to Be Reconsidered: Industry Official

The EPA is going to reconsider an Obama-era regulation that limits methane emissions from landfills and pause its upcoming compliance deadlines, a waste management industry official said.

Climate Regulation

Trudeau to Force a Hybrid Carbon Price on Holdout Provinces

Canada's federal government will tax fossil fuels and cap industry emissions in any province that doesn't bring in its own carbon price.

Natural Gas

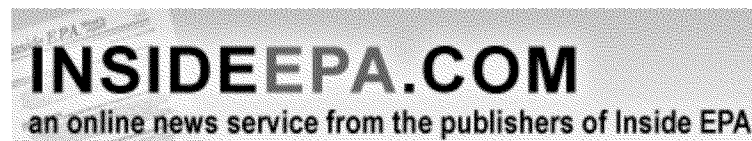
China 'Moonshot Research' Aims for Gas Hydrate Supply by 2030

China is aiming to develop natural gas hydrates, a frontier source of the fuel that's never been produced commercially, by the end of next decade as a way to bolster energy security.

Renewable Energy

Conservatives Suggest More Curbs for Wind Farms on Land in U.K.

Prime Minister Theresa May ruled out new wind farms on land in England if her Conservative party wins the general election next month, tightening restrictions on the technology that's spreading rapidly.



•■■■■■■■■ **Mindful Of CPP Stay, Groups Spar Over Possible D.C. Circuit Rule Remand**

Supporters and opponents of EPA's power sector greenhouse gas rules are clashing over whether a federal appellate court should pause litigation over the rules or remand them to the agency as it mulls whether to revise or rescind the regulations, a question that could determine whether the Supreme Court's stay of the rule remains in place.

•■■■■■■■■ **Energy Industry Opposes Adding Some Natural Gas Facilities To EPA's TRI**

Energy groups are opposing an Obama EPA proposal to expand the Toxics Release Inventory (TRI) environmental release reporting program to include some natural gas processing facilities, saying the rule would be at odds with President Donald Trump's executive order (EO) that aims to limit the number of new rules agencies issue.

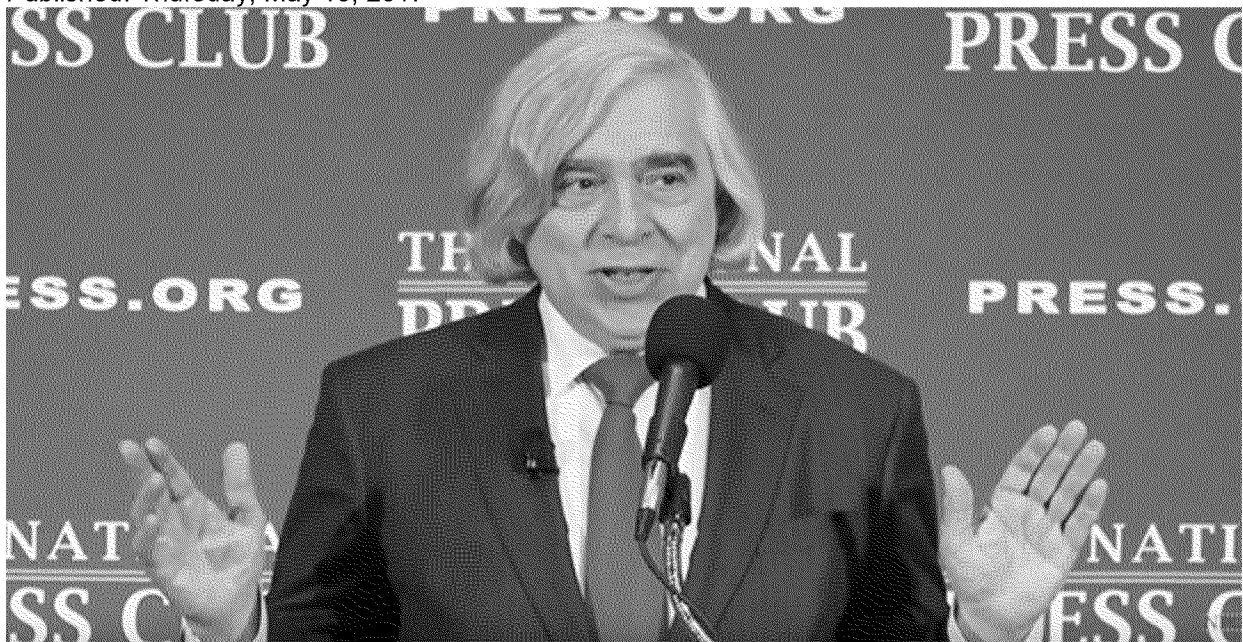


PEOPLE

Moniz joins fusion energy company

Umair Irfan, E&E News reporter

Published: Thursday, May 18, 2017



Former Energy Secretary Ernest Moniz has joined the board of a fusion energy company. Photo courtesy of National Press Club Live via YouTube.

Correction appended.

Former Energy Secretary Ernest Moniz has joined California-based Tri Alpha Energy Inc., a company developing fusion power, as a member of its board of directors.

"Ernie's wide breadth of experience in innovative energy technologies and policies will help further our company's pursuit of safe, clean, sustainable, and commercially competitive fusion based electricity

generation," wrote CEO Steve Specker in a release.

PEOPLE

Fusion energy, unlike the nuclear fission that powers the current generation of reactors, involves sticking small atoms together.

This in theory would generate gobs of power without producing carbon dioxide emissions, but the challenge is immense, and so far no one has come up with a viable way to make electricity from it.

Tri Alpha bills itself as the world's largest private fusion company and is backed with more than \$500 million in capital. Its technology uses superheated plasma to fuse hydrogen and boron.

The company did not immediately respond to requests for comment today.

Moniz, a physicist by training, said in the release that "as someone dedicated to innovation breakthroughs for a low-carbon energy future, I am pleased to join outstanding colleagues at Tri Alpha Energy who see the company's technology offering the real possibility of just such a game-changer."

During his time at the Department of Energy, Moniz supervised the fusion research portfolio at the national laboratories and U.S. contributions to international fusion efforts.

However, the most recent omnibus spending bill Congress passed earlier this month slashed funds for fusion research at DOE to \$380 million, a 13 percent cut (*E&E Daily*, May 2).

Since leaving office in January, Moniz has continued to pad his resume. He is currently a part-time professor at the Massachusetts Institute of Technology and a nonresident senior fellow at Harvard University's Belfer Center for Science and International Affairs.

He is also a distinguished fellow of Emerson Collective, a social justice, technology and education consortium, and will become CEO and co-chairman of the Nuclear Threat Initiative on June 1.

Correction: A previous version of this story misstated the percentage cut to fusion research funds in the recent omnibus spending bill.

AIR POLLUTION

Appeals court pauses lawsuits over Wyo. haze plan

Sean Reilly, E&E News reporter

Published: Thursday, May 18, 2017



The 10th U.S. Circuit Court of Appeals has granted an industry request to pause proceedings in a cluster of regional haze lawsuits over federal regulations to reduce pollution from several Wyoming coal-fired power plants, including Dave Johnston Power Plant. Photo courtesy of PacifiCorp.

A federal appellate court has granted a state and industry request to pause a long-running cluster of lawsuits over federal regulations to reduce haze-forming pollution from several Wyoming coal-fired power plants.

In a [decision](#) filed yesterday, a two-judge panel on the 10th U.S. Circuit Court of Appeals agreed to indefinitely "abate" all proceedings in the regional haze litigation. PacifiCorp and Basin Electric Power Cooperative, joined by the state of Wyoming, had sought the hold early this month; opposed were the Powder River Basin Resource Council and several other conservation groups.

The judges, while saying they had given "careful consideration" to arguments from both sides, did not detail the rationale for their decision. Earthjustice attorney Jenny Harbine, who is representing the conservation groups, expressed disappointment in the decision in an email this morning, adding that "we are considering our options."

The federal haze plan for Wyoming, published in early 2014, would impose tighter controls on emissions of nitrogen oxides (NOx) than Wyoming had wanted for the plants in question. At the time, U.S. EPA predicted that its plan would cumulatively cut NOx emissions by 65,000 tons annually. Under a settlement reached late last year with the Basin Electric cooperative, however, the agency agreed to partially relax its initial requirements for Laramie River Station, a 1,710-megawatt plant located in southeastern Wyoming.

The settlement will take until mid-2019 to fully implement; in seeking the hold, the state and two power producers argued that the issues in play were so "intertwined" with issues affecting PacifiCorp's facilities that proceeding with the litigation at this point would effectively be a waste of time.

The conservation groups objected that a freeze would delay pollution cuts that would save lives and improve visibility on federal lands. EPA attorneys had specifically urged a pause on the portion of the litigation pertaining to Laramie River Station and did not oppose abatement of the broader proceedings. Two other litigants, Arch Coal Inc. and the American Coalition for Clean Coal Electricity, also did not [oppose](#) the abatement motion.

EPA's regional haze program, dating back to 1999 in its current form but only seriously enforced in recent years, aims to restore natural views to 156 national parks and wilderness areas by 2064. The standoff in Wyoming, which typically accounts for about 40 percent of the nation's coal production, is one of several legal clashes playing out around the country.

PacifiCorp is headquartered in Oregon. The Basin Electric co-op, based in North Dakota, shares ownership of Laramie River Station with five regional partners under the umbrella of the Missouri Basin Power Project.

DOE

Republican senators press Trump against research cuts

Geof Koss, E&E News reporter

Published: Thursday, May 18, 2017



Senate Republicans are urging President Trump not to slash funding for Department of Energy research programs. Photo courtesy of the Department of Energy.

Top Senate Republicans are urging President Trump not to slash funding for Department of Energy research programs, following reports that the full fiscal 2018 budget will seek deep cuts at the department.

In a letter sent today, six GOP senators called on Trump to "maintain funding for these critical" energy development efforts.

"Government-sponsored research is one of the most important investments our country can make to encourage innovation, unleash our free enterprise system to create good-paying jobs, and ensure American competitiveness in a global economy," wrote the group, led by Sen. Lamar Alexander of

Tennessee, chairman of the Energy and Water Appropriations Subcommittee.

"The United States cannot overcome scientific obstacles without the combined support of both the private and public sectors," they wrote. "Federally funded research is imperative to ensuring we meet our energy, science, and national security needs for generations to come."

Also signing the letter were Sens. Susan Collins of Maine, Cory Gardner of Colorado, Lindsey Graham of South Carolina, Energy and Natural Resources Chairwoman Lisa Murkowski of Alaska and Mike Rounds of South Dakota. Collins, Murkowski and Graham are also appropriators.

The letter follows reports that the full fiscal 2018 budget — due to be released next week — will seek upward of a 70 percent reduction for DOE's Office of Energy Efficiency and Renewable Energy. The White House also envisions deep cuts to nuclear and fossil research ([Greenwire](#), May 17).

The senators noted that all these offices received "record funding levels" in the fiscal 2017 omnibus Trump signed early this month.

"We cannot lose the technological advantages we have gained through our country's investment in research and development," the letter concludes. "Governing is about setting priorities, and the federal debt is not the result of Congress overspending on science and energy research each year."

Dems tout clean energy jobs

Separately, Democrats on the Joint Economic Committee today released a [report](#) highlighting growth in clean energy jobs, which totaled 3.3 million last year.

"In 2016, more Americans worked in solar electricity generation (374,000) than in fossil fuel electricity generation (150,000). Another 100,000 Americans worked in wind generation and 97,000 in other clean energy electricity sources," the report said.

An additional 2 million Americans work in the energy efficiency sector, including manufacturing and construction. One in five construction jobs, said the report, are related to efficiency.

JEC is preparing similar reports on "the importance of expanding and prioritizing the clean energy economy," according to a statement from Sen. Martin Heinrich (D-N.M.), ranking member on the panel.

"I have long advocated for growing the clean energy economy in New Mexico and across the nation to create millions of good-paying jobs — especially in rural communities," Heinrich said.

"Congress has an opportunity to act now and make sure that the United States is a leader in this emerging market — and see that American companies and workers are the ones producing and exporting the technology and products to meet this demand.

"Though President Trump and Congressional Republicans have sought to cut programs and reverse policies that support this sector, we must prioritize advancing clean energy to create jobs, spur economic growth, and meet the needs of the future of our economy."

LOBBYING

Clean Line Energy signs ex-House staffer

Sam Mintz, E&E News reporter

Published: Thursday, May 18, 2017

A former House Appropriations staffer has signed to lobby for Clean Line Energy Partners, according to registration papers.

Doug Bobbitt worked as a senior policy adviser on the House Appropriations Committee to former Rep. Tom Latham (R-Iowa), who retired in 2015 after 20 years in Congress.

PEOPLE

Bobbitt registered to lobby for Clean Line last month. He's employed by the Ingram Group, a Tennessee-based consulting firm led by Tom Ingram, former chief of staff to Sen. Lamar Alexander (R-Tenn.).

He will lobby on electric transmission infrastructure issues, as well as on legislation introduced this year in the House ([H.R. 1373](#)) and Senate ([S. 529](#)) that would allow states to reject the use of federal eminent domain authority for energy projects.

Promoted by Arkansas lawmakers, that legislation targets a federal partnership with Clean Line's Plains and Eastern line, a \$2.3 billion, 720-mile transmission line that is set to send 4,000 megawatts of renewable energy to Arkansas, Tennessee and the southeastern United States ([Greenwire](#), March 7).

Clean Line has said the project meshes with President Trump's desire to create American jobs and strengthen infrastructure, but the Arkansas delegation has framed the Department of Energy's involvement as federal overreach.

CLIMATE

EPA weighs changes to Obama curbs on heat-trapping HFCs

Amanda Reilly, E&E News reporter

Published: Thursday, May 18, 2017



U.S. EPA is considering changes to an Obama administration rule requiring industry to better manage leaks of hydrofluorocarbons and other ozone-depleting compounds in air conditioning and refrigeration appliances. Photo by CWCS Managed Hosting, courtesy of Flickr.

U.S. EPA is considering changes to an Obama administration rule that would reduce air emissions of potent heat-trapping chemicals.

The agency asked a federal court this week to delay litigation over the rule targeting ozone-depleting substances as it looks for "potential opportunities to resolve some or all of the issues presented without the need for judicial action."

At issue is a regulation the Obama EPA published in November 2016 requiring industry to better manage leaks of hydrofluorocarbons and other ozone-depleting compounds in air conditioning and refrigeration appliances (*Climatewire*, Oct. 3, 2016).

While short-lived in the atmosphere, HFCs are thousands of times more potent as greenhouse gases than carbon dioxide. The Obama EPA touted the regulation as a way to avoid 7 million metric tons of CO₂-equivalent emissions a year.

The National Environmental Development Association's Clean Air Project and the Air Permitting Forum challenged the regulation in the U.S. Court of Appeals for the District of Columbia Circuit a few days before the presidential inauguration in January.

The Air Permitting Forum, an industry group represented by law firm Hunton & Williams LLP, also filed a petition for administrative review at EPA.

The D.C. Circuit in February granted a motion by the groups to hold the case for 90 days to allow for discussion of the issues raised in the lawsuit and the administrative petition. While it didn't oppose the motion, EPA had yet to weigh in on the future of the case.

In its [motion](#) Tuesday, EPA said it held listening sessions with the groups on April 27 to discuss the next steps. On May 2, the agency also spoke with the Natural Resources Defense Council and refrigerant companies that are intervening in the case in defense of the Obama HFC rule.

Granting a 45-day stay in the litigation, EPA argued, would allow the agency not only to look for opportunities to resolve the issues raised in court but also to take a closer look at the administrative petition.

And a pause in the case would allow EPA to brief incoming Trump administration officials, the agency's court filing said, "so that they may become more familiar with the subject matter and issues presented."

The D.C. Circuit has yet to rule in a separate lawsuit brought by manufacturers of HFCs challenging EPA's 2015 rule phasing out certain uses for the chemicals, which were previously accepted as alternatives to ozone-depleting substances.

At February oral arguments, the Trump Justice Department argued that the rule was allowed under the Clean Air Act ([Greenwire](#), Feb. 17).

AIR POLLUTION

DOJ preparing emission suit against Fiat Chrysler — source

[Camille von Kaenel](#), E&E News reporter

Published: Thursday, May 18, 2017



The Justice Department is preparing to sue Fiat Chrysler Automobiles NV over diesel emissions cheating. Photo courtesy of Fiat Chrysler Automobiles.

The Trump administration is preparing to sue Fiat Chrysler Automobiles NV over accusations that it violated the Clean Air Act with emission-cheating software on its diesel vehicles, according to a source who was briefed on the matter.

The Justice Department will likely file the lawsuit by Wednesday if negotiations between the automaker

and DOJ fail to settle the matter, said the source, who was not authorized to speak publicly on the talks.

U.S. EPA accused Fiat Chrysler in early January of violating federal emissions standards by installing performance-altering software on roughly 104,000 2014-16 Jeep Grand Cherokees and Ram 1500 trucks with 3.0-liter diesel engines. The agency said the company failed to disclose the devices to regulators ([Greenwire](#), Jan. 12).

The devices allowed the vehicles to spew "significantly" more smog-causing nitrogen oxides (NOx) on the road than during testing. NOx reacts with oxygen to form ground-level ozone, which irritates breathing. It is also responsible for acid rain, which devastates vegetation.

The discovery stemmed from an expanded testing program at EPA's lab in Ann Arbor, Mich., following the discovery in 2015 of Volkswagen AG's emission cheating.

DOJ's preparation of a possible Fiat Chrysler lawsuit was first reported by [Bloomberg](#). Shares in the Italian-American company dropped by more than 3 percent in early trading today following the news.

The United States is seeking to join existing civil lawsuits against Fiat Chrysler. A judge in the U.S. District Court for the Northern District of California has set a hearing Wednesday for a series of lawsuits by diesel truck owners and dealers and some state governments alleging excess pollution.

The same court oversaw the Volkswagen case, which has led to roughly \$25 billion in civil and criminal penalties and automobile buybacks. The German automaker admitted to using defeat devices on half a million diesel vehicles to turn on emissions controls during testing but not during everyday driving.

The Obama administration's EPA accused Fiat Chrysler in January of hiding "auxiliary emissions control devices" — software that alters vehicle performance during testing and that regulators usually allow if disclosed. EPA said it was investigating whether those could have been "defeat devices," illegal software meant to evade tests.

The ongoing probe has yielded some new evidence, according to a source, but the scope of the complaint remains the same as in January.

Fiat Chrysler has denied that it used defeat devices in the same way as Volkswagen.

The automaker said in a statement yesterday that any litigation would be "counterproductive" to ongoing talks with EPA and the California Air Resources Board.

The automaker has said it's working with EPA and the air board to certify its model-year 2017 diesel vehicles. EPA has held back on granting the certification, which the automaker needs before it can sell vehicles in the country.

The European Commission, prodded by Germany, also launched legal action against Italy yesterday for "failing" to respond to allegations that Fiat Chrysler used defeat devices.

The potential U.S. lawsuit against Fiat Chrysler is the latest knock on diesel vehicles.


Researchers who first uncovered Volkswagen's cheating revealed that diesel vehicles routinely exceeded emissions requirements due to faulty testing in a study published in *Nature* last week ([Greenwire](#), May 15).

In 2015, diesel vehicles released some 13.1 million tons of NOx — or more than 50 percent above the 8.6 million tons that would have resulted had those vehicles met emission standards, according to the study.

Mercedes-Benz halted efforts to get approval for some of its 2017 diesel vehicles earlier this month.

And the CEO of Volvo Cars said this week in an interview that the Swedish carmaker was going to stop development of new diesel vehicles, before a spokesman partly walked back those claims.

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1. INTERIOR:
Deputy nominee pledges to get federal energy flowing
 The nominee to take over as the Interior Department's second in command yesterday promised to fulfill the Trump administration's goal of unencumbered extraction of federal minerals.

TOP STORIES

2. METHANE:
Industry prods Trump team for quick relief from Obama rule

3. TRADE:
USTR's launch of NAFTA overhaul draws questions on energy

OIL AND GAS

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Colo. AG overrules governor in kids' case against energy industry

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Texas poised to reauthorize energy regulator without reform

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Iowa landowners claim win over Clean Line project

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Former coal company CEO makes plea to Trump

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TOYOTA, Japan — It's eerily silent, and only the digital speedometer seems to notice that the hydrogen fuel-cell-powered car is picking up speed. The name Mirai means "future," a whisper of what Toyota thinks the world will look like in years to come. The rest of the world is listening, but skeptical.

TOP STORIES

2. CALIFORNIA:**Did warming play a role in the Rams, Chargers stadium delay?****3. SCIENCE:****There's moss in Antarctica now, and it's getting even greener****4. TRANSPORTATION:****Trump admin delays climate metric for highways**

FEDERAL POLICY

5. INTERIOR:**Zinke deputy reveals few clues on climate policy****6. DOE:****Agency thaws frozen funds for ARPA-E****7. EPA:****Technical climate collaboration with China continues under Trump****8. METHANE:****Oil industry asks Zinke to delay rule 2 years****9. WHITE HOUSE:****Trump talks drugs, economy with pro-climate-action leader**

SCIENCE AND TECHNOLOGY

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INTERNATIONAL

14. FINANCE:**Oil company offers €500M in green bonds**

15. AUSTRALIA:

Generational gap forms around climate change for rural politicians

16. FINANCE:

E.U. pledges €800M to help almost 80 nations on climate

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